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S/N 09/824,533



HJ  
PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Jane Nichols et al.  
Serial No.: 09/824,533  
Filed: April 2, 2001  
Title: PSORIASIS PATCH

Examiner: Robert M DeWitty  
Group Art Unit: 1616  
Docket: 240.062US1

**DECLARATION UNDER 37 CFR § 1.132**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

I, David Rolf, declare and say as follows:

1. I am a co-inventor of the subject matter claimed in the above-identified U.S. patent application serial No. 09/824,533, filed April 2, 2001.
2. I have reviewed the Office Action mailed September 4, 2002 in relation to the above-identified patent application and have reviewed Hymes et al. (U.S. Patent No. 6,348,212) cited by the Examiner in the Office Action mailed September 4, 2002. I make this declaration in support of the patentability of the claims of U.S. patent application serial No. 09/824,533.
3. I have been employed at LecTec Corporation, Minnetonka, Minnesota, since 1984. I held the position of Director of Therapeutic Research from 1992 to 1996. Since 1996, I have held the position of Technological Leader with LecTec Corporation. My job duties in this position have involved creating new patentable products and process.
4. Jane Nichols was employed by LecTec Corporation from April 1997 to October 2002. Teri Buseman was employed by LecTec Corporation from October 1987 to June 2002. David Brandwein was employed by LecTec Corporation from August 2000 to May 2002. Daniel M. McWhorter was employed by LecTec Corporation from January 1997 to February 23, 2001 and again from November 1, 2002 to the present.
5. The invention of the subject matter claimed in U.S. patent application serial No 09/824,533 by myself, Jane Nichols, Teri Buseman, David Brandwein, and Daniel M. McWhorter, was made in the scope of our employment at LecTec Corporation and was related to the activities of LecTec Corporation. At the time of the invention of the subject

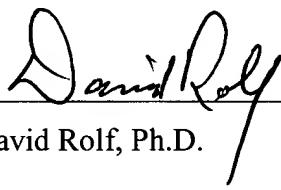
matter of U.S. patent application serial No 09/824,533, I and the other four co-inventors had signed employment agreements with LecTec Corporation. Appendices A-E are copies of these employment agreements. Appendix A is a copy of my employment agreement with LecTec Corporation, signed September 15, 1985. Appendix B is a copy of Jane Nichols's employment agreement with LecTec Corporation, signed April 1, 1997. Appendix C is a copy of Teri Buseman's employment agreement with LecTec Corporation, signed October 14, 1987. Appendix D is a copy of David Brandwein's employment agreement with LecTec Corporation, signed August 7, 2000. Appendix E is a copy of Daniel M. McWhorter's employment agreement with LecTec Corporation, signed January 2, 1997.

6. I further declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed by me to be true; and further that I made these statements with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated:

1/16/03

By:



David Rolf, Ph.D.

**S/N 09/824,533**

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Jane Nichols et al.  
Serial No.: 09/824,533  
Filed: April 2, 2001  
Title: PSORIASIS PATCH

Examiner: Robert M DeWitty  
Group Art Unit: 1616  
Docket: 240.062US1

**DECLARATION UNDER 37 CFR § 1.132**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

I, Alan C. Hymes, declare and say as follows:

1. I am the other co-inventor with Jane Nichols of the subject matter claimed in U.S. Patent No. 6,348,212.
2. I have reviewed the Office Action mailed September 4, 2002 in relation to U.S. patent application serial No. 09/824,533, filed April 2, 2001. I make this declaration in support of the patentability of the claims of U.S. patent application serial No. 09/824,533.
3. Before April 2, 2001, the filing date of U.S. patent application serial No 09/824,533, Jane Nichols and I had already assigned the subject matter claimed in U.S. Patent No. 6,348,212 to LecTec Corporation, as evidenced by the assignments executed by Jane Nichols and myself on March 21, 2001 and March 6, 2001, and recorded with the United States Patent and Trademark Office on May 7, 2001 on reel 011785, frame 0074.
4. I further declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed by me to be true; and further that I made these statements with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 1/10/03

By: Alan C. Hymes

Alan C. Hymes, M.D.

**Appendix A**  
**Employment Agreement of David Rolf**

EMPLOYMENT AGREEMENT

THIS AGREEMENT made 9/15, 1985 between  
LECTEC, INC., hereinafter called the Company, and Donald  
Ruf, hereinafter called the Employee.

WHEREAS, the Employee desires to be employed by the Company  
and the Company desires to employ the Employee in a capacity in  
which he may receive or contribute to Confidential Information;

NOW, THEREFORE, in consideration of such employment, and other  
good and valuable consideration, it is agreed:

1. Definitions. As used in this Agreement:

- (a) "Company" means LECTEC, INC., its successors and assigns,  
and any of its present or future subsidiaries or organizations controlled by, controlling or under common control with it.
- (b) "Confidential Information" means information disclosed to the Employee or known by the Employee as a consequence of or through his employment by the Company, not generally known in the industry in which the Company is or may become engaged, about the Company's products, processes, and services, including information relating to research, development, inventions, manufacture, purchasing, accounting, engineering, marketing, merchandising, and selling.
- (c) "Inventions" means discoveries, concepts and ideas, whether patentable or not, including but not limited to processes, methods, formulas, and techniques, as well as improvements thereof or know-how related thereto, concerning any present or prospective activities of the Company with which the Employee becomes acquainted as a result of his employment by the Company.
- (d) "Conflicting Organization" means any person or organization engaged in or about to become engaged in research

on or development, production, marketing, or selling  
of a Conflicting Product.

(e) "Conflicting Product" means any product, process, or  
service of any person or organization other than the  
Company, in existence or under development, which resembles  
or competes with a product, process, or service upon or  
with which the Employee works during his employment by  
the Company or about which the Employee acquires Confidential  
Information.

2. Duties. The Employee shall be employed by the Company and  
shall faithfully and to the best of his ability perform and render  
such services and perform such duties for the Company as it shall direct  
and shall devote all of his working time to such services and duties.

3. Compensation and term. As compensation for his services,  
the Employee shall receive \_\_\_\_\_ per \_\_\_\_\_  
payable in \_\_\_\_\_ installments subject to periodic  
revision mutually agreed upon by the Employee and the Company. Such  
employment shall continue for one year, and shall be automatically  
renewed for one-year periods thereafter, at all times subject to the  
right of either the Employee or the Company to terminate the employment  
on \_\_\_\_\_ notice thereafter. The Company shall  
have the right to terminate such employment at any time in the event  
of default or nonperformance by the Employee of any of the provisions  
of this Agreement. In the event of notice given by either party, the  
Employee shall continue to work for the Company for the full notice  
period, if so requested by the Company. The Company reserves the right  
at any time to pay to the Employee his full salary for any required  
notice period and to terminate his employment immediately or at any  
time during such notice period.

4. Shop right. With respect to Inventions made or conceived  
by the Employee, whether or not during the hours of his employment or  
with the use of the Company facilities, materials, or personnel, either  
solely or jointly with others during his employment by the Company or

within two years after termination of such employment if based on or related to Confidential Information, without royalty or any other consideration to him therefor:

- (a) The Employee shall inform the Company promptly and fully of such Inventions by a written report, setting forth in detail the procedures employed and the results achieved. A report will be submitted by the Employee upon completion of any studies or research projects undertaken on the Company's behalf, whether or not in the Employee's opinion a given project has resulted in an Invention.
- (b) The Employee shall apply, at the Company's request and expense, for United States and foreign letters patent either in the Employee's name or otherwise as the Company shall desire.
- (c) The Employee hereby assigns and agrees to assign to the Company all of his rights to such Inventions, and to applications for United States and/or foreign letters patent and to United States and/or foreign letters patent granted upon such Inventions, all without further or additional compensation or royalty.
- (d) The Employee shall acknowledge and deliver promptly to the Company without charge to the Company but at its expense such written instruments and do such other acts, such as giving testimony in support of the Employee's inventorship, as may be necessary in the opinion of the Company to obtain and maintain United States and/or foreign letters patent and to vest the entire right and title thereto in the Company.
- (e) The Company shall also have the royalty-free right to use in its business, and to make, use, and sell products processes, and/or services derived from any inventions, discoveries, concepts, and ideas whether or not patentable

including but not limited to processes, methods, formulas, and techniques, as well as improvements thereof or know-how related thereto which are not within the scope of Inventions as defined herein but which are conceived or made by the Employee while he is employed by the Company or with the use or assistance of the Company's facilities, materials, or personnel.

5. Disclosure of Information.

- (a) Except as required in his duties to the Company, the Employee will never, directly or indirectly, use, disseminate, disclose, lecture upon, or publish articles concerning any Confidential Information.
- (b) Upon termination of his employment with the Company, all documents, records, notebooks, and similar repositories of or containing Confidential Information, including copies thereof, then in the Employee's possession, whether prepared by him or others, will be left with the Company.
- (c) Except as listed in Exhibit A annexed hereto, the Employee will not assert any rights under any inventions, discoveries, concepts, or ideas or improvements thereof, or know-how related thereto as having been made or acquired by him prior to his being employed by the Company or since then and not otherwise covered by the terms of this Agreement.
- (d) For a period of two years after termination of his employment with the Company, the Employee will not render services, directly or indirectly, to any Conflicting Organization, except that the Employee may accept employment with a Conflicting Organization whose business is diversified, and which as to part of its business is not a Conflicting Organization, provided that the Company, prior to the Employee's accepting such employment, shall

receive separate written assurances satisfactory to the Company from such Conflicting Organization and from the Employee that the Employee will not render services directly or indirectly in connection with any Conflicting Product.

6. Binding effect. This Agreement shall be binding upon the parties hereto and upon their respective executors, administrators, legal representatives, successors and assigns.

7. Applicable law. This Agreement shall be governed for all purposes by the laws of the State of Minnesota. If any provision of this Agreement is declared void, such provision shall be deemed severed from this Agreement, which shall otherwise remain in full force and effect.

8. Arbitration. Any dispute or controversy arising from or relating to this Agreement shall be decided by arbitration in the City of Minneapolis by the American Arbitration Association and in accordance with the rules and regulations of that association. At the request of either the Company or the Employee, arbitration proceedings will be conducted in the utmost secrecy; in such case, all documents, testimony, and records shall be received, heard, and maintained by the arbitrators in secrecy, available for inspection only by the Company or by the Employee and by their respective attorneys and experts who shall agree, in advance and in writing, to receive all such information confidentially and to maintain such information in secrecy until such information shall become generally known.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

IN THE PRESENCE OF:

LECTEC, INC. (Company)

By \_\_\_\_\_  
Its \_\_\_\_\_

EMPLOYEE \_\_\_\_\_

**Appendix B**

**Employment Agreement of Jane Nichols**

**LECTEC CORPORATION  
EMPLOYEE AGREEMENT**

Nichols

Employee's Last Name

Jane

First Name

m.

Middle Initial

In order for LecTec Corporation ("LecTec") to maintain a competitive edge, LecTec must protect its inventions, discoveries, works of authorship and its proprietary technical and business information.

Therefore, every new employee is required to sign this Agreement as a condition of employment with LecTec.

By signing this Agreement, I agree:

1. As they are used in this Agreement, the term "inventions" includes inventions, improvements and discoveries (whether or not they are patentable); and the term "works of authorship" includes writings, drawings, software, semiconductor mask works, and other works of authorship (whether or not they are copy-rightable).

2. I will promptly disclose to the Company in writing all inventions and works of authorship which are conceived, made, discovered, written or created by me alone or jointly with someone else on LecTec's time or on my own time, while I am employed by LecTec and for one year after termination of my employment; and I assign all rights to these inventions and works of authorship to LecTec.

3. I will give LecTec all assistance it reasonably requires to perfect, protect, and use its rights to inventions and works of authorship. In particular, I will sign all documents, necessary or desirable to transfer or record the transfer of my entire right, title and interest in inventions and works of authorship; and to enable LecTec to obtain patent, copyright, or other legal protection for inventions and works of authorship. Any out-of-pocket expenses will be paid by LecTec.

4. **NOTICE:** Minnesota law exempts from this Agreement "AN INVENTION FOR WHICH NO EQUIPMENT, SUPPLIES, FACILITY OR TRADE SECRET INFORMATION OF THE EMPLOYER WAS USED AND WHICH WAS DEVELOPED ENTIRELY ON THE EMPLOYEE'S TIME, AND (1) WHICH DOES NOT RELATE (A) DIRECTLY TO THE BUSINESS OF THE EMPLOYER OR (B) TO THE EMPLOYER'S ACTUAL OR DEMONSTRABLY ANTICIPATED RESEARCH OR DEVELOPMENT, OR (2) WHICH DOES NOT RESULT FROM ANY WORK PERFORMED BY THE EMPLOYEE FOR THE EMPLOYER."

5. Also excluded from this Agreement are the following inventions and works of authorship which I own or control and WHICH WERE CONCEIVED, MADE, WRITTEN, OR CREATED by me PRIOR TO EMPLOYMENT WITH LecTec, although they would be useful to LecTec, its subsidiaries or affiliates.

(1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

Other than these, I do not claim to own or control rights in any inventions or works of authorship and will not assert any rights against LecTec.

6. I understand that if I possess proprietary information of another person or company as a result of prior employment, LecTec expects me to honor any legal obligation I have with that person or company with respect to that proprietary information.

7. I will never divulge or use any of the proprietary technical and business information of LecTec for my or another's benefit, unless authorized in writing by LecTec. Nor will I accept any employment which would inherently involve the use or disclosure by me of proprietary information of LecTec.

8. All documents and other tangible property relating in any way to the business of LecTec are the exclusive property of LecTec (even if I authored or created them). I agree to return all such documents and tangible property to LecTec upon termination of employment or at such earlier time as LecTec may request me to do so.

9. During my employment, I will not plan, organize or engage in any business competitive with any product or service marketed or planned for marketing by LecTec or conspire with others to do so, and will not engage in any other activity which may create a conflict of interest with LecTec.

10. For a period of two years after termination of my employment with LecTec:

(a) I will inform my new employer, prior to accepting employment, of the existence of this Employee Agreement and provide such employer with a copy thereof.

(b) If I have been or am employed by LecTec in a sales capacity, I will not render services in the United States, directly or indirectly, to any conflicting Organization in connection with the development, manufacture, marketing, sale, merchandising, leasing, servicing or promotion of any Conflicting Product to any person or organization upon whom I called, or whose account I supervised on behalf of LecTec, at any time during the last three years of my employment by LecTec.

(c) If I have been or am employed by LecTec in a non-sales capacity, I will not render, to any Conflicting Organization, services, directly or indirectly, in the United States, or in any country in which LecTec has a plant for manufacturing a product upon which I worked during my employment by LecTec, except that I may accept employment with a large Conflicting Organization whose business is diversified (and which as to part of its business is not a Conflicting Organization), provided LecTec, prior to my accepting such employment, shall receive separate written assurances satisfactory to LecTec from such Conflicting Organization and from me, that I will not render services directly or indirectly in connection with any Conflicting Product.

(d) CONFLICTING PRODUCT, as used in this Agreement, means any product, method or process, system or service of any person or organization other than LecTec, in existence or under development, which is the same as or similar to or competes with, or has a usage allied to, a product, method or process, system or service upon which I work (in either a sales or a non-sales capacity) during the last three years of my employment by LecTec, or about which I acquire Confidential Information.

(e) CONFLICTING ORGANIZATION, as used in this Agreement, means any person or organization which is engaged in or about to become engaged in, research on or development, production, marketing, leasing, selling or servicing of a Conflicting Product.

11. I will comply with all of LecTec guidelines, policies and procedures.

12. I will participate in an exit interview at the time of termination of employment with LecTec, and will sign a statement that I have returned to LecTec all documents and tangible property, and that I acknowledge my continuing obligations under this Employee Agreement.

13. Consent to Jurisdiction: I agree to submit to the jurisdiction of the State of Minnesota, U.S.A.

14. Governing Law: This Agreement and each and every one of its provisions shall be interpreted under the laws of the State of Minnesota, U.S.A.

15. I acknowledge that all of the provisions of the Agreement are fair and necessary to protect the interests of LecTec. However, if a provision of this Agreement is held invalid by a court of competent jurisdiction, the remaining provisions will nonetheless be enforceable according to their terms. Further, if any provision is held to be overbroad as written, that provision should be considered to be amended to narrow its application to the extent necessary to make the provision enforceable according to applicable law and enforced as amended.

16. I understand that even if LecTec waives or fails to enforce the terms of this Agreement or any similar agreement in one instance, that will not constitute a waiver by LecTec of rights with respect to other violations of this or any other agreement.

17. This Agreement will be binding on my heirs, assigns and legal representatives, and it may be transferred by LecTec to its successors and assigns.

Accepted by LecTec Corporation

4/1/97

Date

Alice Day

By

HR Administrator

Title

Date

4/1/97

Signature of Employee

Dane M. Thielke

Address

7801 Bush Lake Drive

Bloomington, Minn. 55438

Title

Vice President of Marketing

**Appendix C**

**Employment Agreement of Teri Buseman**

## EMPLOYMENT AGREEMENT

THIS AGREEMENT made OCTOBER 14, 1987 between  
LECTEC CORPORATION, hereinafter called the Company, and  
TERI L. BUSEMAN, hereinafter called the  
Employee.

WHEREAS, the Employee desires to be employed by the Company  
and the Company desires to employ the Employee in a capacity in  
which he may receive or contribute to Confidential Information;

NOW, THEREFORE, in consideration of such employment, and  
other good and valuable consideration, it is agreed:

I. Definitions. As used in this Agreement:

- a. "Company" means LECTEC CORPORATION, its successors  
and assigns, and any of its present or future  
subsidiaries or organizations controlled by,  
controlling or under common control with it.
- b. "Confidential Information" means information  
disclosed to the Employee or known by the Employee  
as a consequence of or through his employment by the  
Company, not generally known in the industry in  
which the Company is or may become engaged, about  
the Company's products, processes, and services,  
including information relating to research,  
development, inventions, manufacture, purchasing,  
accounting, engineering, marketing, merchandising,  
and selling.
- c. "Inventions" means discoveries, concepts and ideas,  
whether patentable or not, including but not limited  
to processes, methods, formulas, and techniques, as  
well as improvements thereof or know-how related  
thereto, concerning any present or prospective  
activities of the Company with which the Employee  
becomes acquainted as a result of his employment by  
the Company.
- d. "Conflicting Organization" means any person or  
organization engaged in or about to become engaged  
in research on or development, production,  
marketing,, or selling of a Conflicting Product.
- e. "Conflicting Product" means any product, process, or  
service of any person or organization other than the  
Company, in existence or under development, which  
resembles or competes with a product, process, or  
service upon or with which the Employee works during  
his employment by the Company or about which the  
Employee acquires Confidential Information.

2. Duties. The Employee shall be employed by the Company and shall faithfully and to the best of his ability perform and render such services and perform such duties for the Company as it shall direct and shall devote all of his working time to such services and duties.
3. Shop Right. With respect to Inventions made or conceived by the Employee, whether or not during the hours of his employment or with the use of the Company facilities, materials, or personnel, either solely or jointly with others during his employment by the Company or within two years after termination of such employment if based on or related to Confidential Information, without royalty or any other consideration to him therefor:
  - a. The Employee shall inform the Company promptly and fully of such Inventions by a written report, setting forth in detail the procedures employed and the results achieved. A report will be submitted by the Employee upon completion of any studies or research projects undertaken on the Company's behalf, whether or not in the Employee's opinion a given project has resulted in an Invention.
  - b. The Employee shall apply, at the Company's request and expense, for United States and foreign letters patent either in the Employee's name or otherwise as the Company shall desire.
  - c. The Employee hereby assigns and agrees to assign to the Company all of his rights to such Inventions, and to applications for United States and/or foreign letters patent and to United States and/or foreign letters patent granted upon such Inventions, all without further or additional compensation or royalty.
  - d. The Employee shall acknowledge and deliver promptly to the Company without charge to the Company but at its expense such written instruments and do such other acts, such as giving testimony in support of the Employee's inventorship, as may be necessary in the opinion of the Company to obtain and maintain United States and/or foreign letters patent and to vest the entire right and title thereto in the Company.
  - e. The Company shall also have the royalty-free right to use in its business, and to make, use, and sell products processes, and/or services derived from any inventions, discoveries, concepts, and ideas whether or not patentable including but not limited to processes, methods, formulas, and techniques, as well as improvements thereof or know-how related thereto which are not within the scope of Inventions.

as defined herein but which are conceived or made by the Employee while he is employed by the Company or, with the use or assistance of the Company's facilities, materials, or personnel.

4. Disclosure of Information.

- a. Except as required in his duties to the Company, the Employee will never, directly or indirectly, use, disseminate, disclose, lecture upon, or publish articles concerning any Confidential Information.
  - b. Upon termination of his employment with the Company, all documents, records, notebooks, and similar repositories of or containing Confidential Information, including copies thereof, then in the Employee's possession, whether prepared by him or others, will be left with the Company.
  - c. Except as listed in Exhibit A annexed hereto, the Employee will not assert any rights under any inventions, discoveries, concepts, or ideas or improvements thereof, of know-how related thereto as having been made or acquired by him prior to his being employed by the Company or since then and not otherwise covered by the terms of this Agreement.
  - d. For a period of two years after termination of his employment with the Company, the Employee will not render services, directly or indirectly, to any Conflicting Organization, except that the Employee may accept employment with a Conflicting Organization whose business is diversified, and which as to part of its business is not a Conflicting Organization, provided that the Company, prior to the Employee's accepting such employment, shall receive separate written assurances satisfactory to the Company from such Conflicting Organization and from the Employee that the Employee will not render services directly or indirectly in connection with any Conflicting Product.
5. Binding Effect. This Agreement shall be binding upon the parties hereto and upon their respective executors, administrators, legal representatives, successors and assigns.
6. Applicable Law. This Agreement shall be governed for all purposes by the laws of the State of Minnesota. If any provision of this Agreement is declared void, such provision shall be deemed severed from this Agreement, which shall otherwise remain in full force and effect.

7. Arbitration. Any dispute or controversy arising from or relating to this Agreement shall be decided by arbitration in the City of Minneapolis by the American Arbitration Association and in accordance with the rules and regulations of that association. At the request of either the Company or the Employee, arbitration proceedings will be conducted in the utmost secrecy; in such case, all documents, testimony, and records shall be received, heard, and maintained by the arbitrators in secrecy, available for inspection only by the Company or by the Employee and by their respective attorneys and experts who shall agree, in advance and in writing, to receive all such information confidentially and to maintain such information in secrecy until such information shall become generally known.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

IN THE PRESENCE OF:

Alice Ong

Alice Ong

LECTEC CORPORATION (COMPANY)

By James E. Grenelle  
Its Vice President

EMPLOYEE Teri L. Buseman

**Appendix D**

**Employment Agreement of David Brandwein**

LECTEC CORPORATION  
EMPLOYEE AGREEMENTBrandweinDavidH.

Employee's Last Name

First Name

Middle Initial

In order for LecTec Corporation ("LecTec") to maintain a competitive edge, LecTec must protect its inventions, discoveries, works of authorship and its proprietary technical and business information.

Therefore, every new employee is required to sign this Agreement as a condition of employment with LecTec.

By signing this Agreement, I agree:

1. As they are used in this Agreement, the term "inventions" includes inventions, improvements and discoveries (whether or not they are patentable); and the term "works of authorship" includes writings, drawings, software, semiconductor mask works, and other works of authorship (whether or not they are copy-rightable).

2. I will promptly disclose to the Company in writing all inventions and works of authorship which are conceived, made, discovered, written or created by me alone or jointly with someone else on LecTec's time or on my own time, while I am employed by LecTec and for one year after termination of my employment; and I assign all rights to these inventions and works of authorship to LecTec.

3. I will give LecTec all assistance it reasonably requires to perfect, protect, and use its rights to inventions and works of authorship. In particular, I will sign all documents, do all things, and supply all information that LecTec considers necessary or desirable to transfer or record the transfer of my entire right, title and interest in inventions and works of authorship; and to enable LecTec to obtain patent, copyright, or other legal protection for inventions and works of authorship. Any out-of-pocket expenses will be paid by LecTec.

4. NOTICE: Minnesota law exempts from this Agreement "AN INVENTION FOR WHICH NO EQUIPMENT, SUPPLIES, FACILITY OR TRADE SECRET INFORMATION OF THE EMPLOYER WAS USED AND WHICH WAS DEVELOPED ENTIRELY ON THE EMPLOYEE'S TIME, AND (1) WHICH DOES NOT RELATE (A) DIRECTLY TO THE BUSINESS OF THE EMPLOYER OR (B) TO THE EMPLOYER'S ACTUAL OR DEMONSTRABLY ANTICIPATED RESEARCH OR DEVELOPMENT, OR (2) WHICH DOES NOT RESULT FROM ANY WORK PERFORMED BY THE EMPLOYEE FOR THE EMPLOYER."

5. Also excluded from this Agreement are the following inventions and works of authorship which I own or control and WHICH WERE CONCEIVED, MADE, WRITTEN, OR CREATED by me PRIOR TO EMPLOYMENT WITH LecTec, although they would be useful to LecTec, its subsidiaries or affiliates.

- (1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_

Other than these, I do not claim to own or control rights in any inventions or works of authorship and will not assert any rights against LecTec.

6. I understand that if I possess proprietary information of another person or company as a result of prior employment, LecTec expects me to honor any legal obligation I have with that person or company with respect to that proprietary information.

7. I will never divulge or use any of the proprietary technical and business information of LecTec for my or another's benefit, unless authorized in writing by LecTec. Nor will I accept any employment which would inherently involve the use or disclosure by me of proprietary information of LecTec.

8. All documents and other tangible property relating in any way to the business of LecTec are the exclusive property of LecTec (even if I authored or created them). I agree to return all such documents and tangible property to LecTec upon termination of employment or at such earlier time as LecTec may request me to do so.

9. During my employment, I will not plan, organize or engage in any business competitive with any product or service marketed or planned for marketing by LecTec or conspire with others to do so, and will not engage in any other activity which may create a conflict of interest with LecTec.

10. For a period of two years after termination of my employment with LecTec:

- (a) I will inform my new employer, prior to accepting employment, of the existence of this Employee Agreement and provide such employer with a copy thereof.

(b) If I have been or am employed by LecTec in a sales capacity, I will not render services in the United States, directly or indirectly, to any Conflicting Organization in connection with the development, manufacture, marketing, sale, merchandising, leasing, servicing or promotion of any Conflicting Product to any person or organization upon whom I called, or whose account I supervised on behalf of LecTec, at any time during the last three years of my employment by LecTec.

(c) If I have been or am employed by LecTec in a non-sales capacity, I will not render, to any Conflicting Organization, services, directly or indirectly, in the United States, or in any country in which LecTec has a plant for manufacturing a product upon which I worked during my employment by LecTec or in which LecTec provides a service in which I participate during my employment by LecTec, except that I may accept employment with a large Conflicting Organization whose business is diversified (and which as to part of its business is not a Conflicting Organization), provided LecTec, prior to my accepting such employment, shall receive separate written assurances satisfactory to LecTec from such Conflicting Organization and from me, that I will not render services directly or indirectly in connection with any Conflicting Product.

(d) CONFLICTING PRODUCT, as used in this Agreement, means any product, method or process, system or service of any person or organization other than LecTec, in existence or under development, which is the same as or similar to or competes with, or has a usage allied to, a product, method or process, system or service upon which I work (in either a sales or a non-sales capacity) during the last three years of my employment by LecTec, or about which I acquire Confidential Information.

(e) CONFLICTING ORGANIZATION, as used in this Agreement, means any person or organization which is engaged in or about to become engaged in, research on or development, production, marketing, leasing, selling or servicing of a Conflicting Product.

11. I will comply with all of LecTec guidelines, policies and procedures.

12. I will participate in an exit interview at the time of termination of employment with LecTec, and will sign a statement that I have returned to LecTec all documents and tangible property, and that I acknowledge my continuing obligations under this Employee Agreement.

13. Consent to Jurisdiction: I agree to submit to the jurisdiction of the State of Minnesota, U.S.A.

14. Governing Law: This Agreement and each and every one of its provisions shall be interpreted under the laws of the State of Minnesota, U.S.A.

15. I acknowledge that all of the provisions of the Agreement are fair and necessary to protect the interests of LecTec. However, if a provision of this Agreement is held invalid by a court of competent jurisdiction, the remaining provisions will nonetheless be enforceable according to their terms. Further, if any provision is held to be overbroad as written, that provision should be considered to be amended to narrow its application to the extent necessary to make the provision enforceable according to applicable law and enforced as amended.

16. I understand that even if LecTec waives or fails to enforce the terms of this Agreement or any similar agreement in one instance, that will not constitute a waiver by LecTec of rights with respect to other violations of this or any other agreement.

17. This Agreement will be binding on my heirs, assigns and legal representatives, and it may be transferred by LecTec to its successors and assigns.

Accepted by LecTec Corporation

8/7/00

Date

By

Debie Osg

HR Administrator

Title

8/7/00

Date

David Spender

Signature of Employee

1453 19th Ave NW

Address

New Brighton, MN

Sr. Rad Scientist

Title

## **Appendix E**

### **Employment Agreement of Daniel M. McWhorter**

**LECTEC CORPORATION  
EMPLOYEE AGREEMENT**

McWhorter  
Employee's Last Name

Daniel  
First Name

M.  
Middle Initial

In order for LecTec Corporation ("LecTec") to maintain a competitive edge, LecTec must protect its inventions, discoveries, works of authorship and its proprietary technical and business information.

Therefore, every new employee is required to sign this Agreement as a condition of employment with LecTec.

By signing this Agreement, I agree:

1. As they are used in this Agreement, the term "inventions" includes inventions, improvements and discoveries (whether or not they are patentable); and the term "works of authorship" includes writings, drawings, software, semiconductor mask works, and other works of authorship (whether or not they are copy-rightable).

2. I will promptly disclose to the Company in writing all inventions and works of authorship which are conceived, made, discovered, written or created by me alone or jointly with someone else on LecTec's time or on my own time, while I am employed by LecTec and for one year after termination of my employment; and I assign all rights to these inventions and works of authorship to LecTec.

3. I will give LecTec all assistance it reasonably requires to perfect, protect, and use its rights to inventions and works of authorship. In particular, I will sign all documents, necessary or desirable to transfer or record the transfer of my entire right, title and interest in inventions and works of authorship; and to enable LecTec to obtain patent, copyright, or other legal protection for inventions and works of authorship. Any out-of-pocket expenses will be paid by LecTec.

4. NOTICE: Minnesota law exempts from this Agreement "AN INVENTION FOR WHICH NO EQUIPMENT, SUPPLIES, FACILITY OR TRADE SECRET INFORMATION OF THE EMPLOYER WAS USED AND WHICH WAS DEVELOPED ENTIRELY ON THE EMPLOYEE'S TIME, AND (1) WHICH DOES NOT RELATE (A) DIRECTLY TO THE BUSINESS OF THE EMPLOYER OR (B) TO THE EMPLOYER'S ACTUAL OR DEMONSTRABLY ANTICIPATED RESEARCH OR DEVELOPMENT, OR (2) WHICH DOES NOT RESULT FROM ANY WORK PERFORMED BY THE EMPLOYEE FOR THE EMPLOYER."

5. Also excluded from this Agreement are the following inventions and works of authorship which I own or control and WHICH WERE CONCEIVED, MADE, WRITTEN, OR CREATED by me PRIOR TO EMPLOYMENT WITH LecTec, although they would be useful to LecTec, its subsidiaries or affiliates.

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_

Other than these, I do not claim to own or control rights in any inventions or works of authorship and will not assert any rights against LecTec.

6. I understand that if I possess proprietary information of another person or company as a result of prior employment, LecTec expects me to honor any legal obligation I have with that person or company with respect to that proprietary information.

7. I will never divulge or use any of the proprietary technical and business information of LecTec for my or another's benefit, unless authorized in writing by LecTec. Nor will I accept any employment which would inherently involve the use or disclosure by me of proprietary information of LecTec.

8. All documents and other tangible property relating in any way to the business of LecTec are the exclusive property of LecTec (even if I authored or created them). I agree to return all such documents and tangible property to LecTec upon termination of employment or at such earlier time as LecTec may request me to do so.

9. During my employment, I will not plan, organize or engage in any business competitive with any product or service marketed or planned for marketing by LecTec or conspire with others to do so, and will not engage in any other activity which may create a conflict of interest with LecTec.

10. For a period of two years after termination of my employment with LecTec:

- (a) I will inform my new employer, prior to accepting employment, of the existence of this Employee Agreement and provide such employer with a copy thereof.

(b) If I have been or am employed by LecTec in a sales capacity, I will not render services in the United States, directly or indirectly, to any conflicting Organization in connection with the development, manufacture, marketing, sale, merchandising, leasing, servicing or promotion of any Conflicting Product to any person or organization upon whom I called, or whose account I supervised on behalf of LecTec, at any time during the last three years of my employment by LecTec.

(c) If I have been or am employed by LecTec in a non-sales capacity, I will not render, to any Conflicting Organization, services, directly or indirectly, in the United States, or in any country in which LecTec has a plant for manufacturing a product upon which I worked during my employment by LecTec or in which LecTec provides a service in which I participate during my employment by LecTec, except that I may accept employment with a large Conflicting Organization whose business is diversified (and which as to part of its business is not a Conflicting Organization), provided LecTec, prior to my accepting such employment, shall receive separate written assurances satisfactory to LecTec from such Conflicting Organization and from me, that I will not render services directly or indirectly in connection with any Conflicting Product.

(d) CONFLICTING PRODUCT, as used in this Agreement, means any product, method or process, system or service of any person or organization other than LecTec, in existence or under development, which is the same as or similar to or competes with, or has a usage allied to, a product, method or process, system or service upon which I work (in either a sales or a non-sales capacity) during the last three years of my employment by LecTec, or about which I acquire Confidential Information.

(e) CONFLICTING ORGANIZATION, as used in this Agreement, means any person or organization which is engaged in or about to become engaged in, research on or development, production, marketing, leasing, selling or servicing of a Conflicting Product.

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15. I acknowledge that all of the provisions of the Agreement are fair and necessary to protect the interests of LecTec. However, if a provision of this Agreement is held invalid by a court of competent jurisdiction, the remaining provisions will nonetheless be enforceable according to their terms. Further, if any provision is held to be overbroad as written, that provision should be considered to be amended to narrow its application to the extent necessary to make the provision enforceable according to applicable law and enforced as amended.

16. I understand that even if LecTec waives or fails to enforce the terms of this Agreement or any similar agreement in one instance, that will not constitute a waiver by LecTec of rights with respect to other violations of this or any other agreement.

17. This Agreement will be binding on my heirs, assigns and legal representatives, and it may be transferred by LecTec to its successors and assigns.

Accepted by LecTec Corporation

1/2/97

Date

Alice Aug

By

HR Administrator

Title

January 2, 1997

Date

Danie D M McShan

Signature of Employee

3813 Bridgewater Drive

Address

Eagan, MN 55123

Title

VP R&D